IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.152 OF 2007

Shamrao Ganpati Ghadge and Ors. .. Appellants.
Vs.
Shripati Joti Ghorpade .. Respondent.

Mr.P.J.Shinde for the appellants.

CORAM : D.B.BHOSALE, J.

DATED : 13TH MARCH, 2007

P.C.:

. Heard learned counsel for the appellants.

2. By this appeal the appellants have impugned a judgment and order dated 18.9.2006 by which regular civil appeal no.346 of 1997 filed by the respondent-defendant has been allowed, setting aside a judgment and decree dated 27.1.1997 passed by the trial Court in regular civil suit no.65 of 1995, and the matter has been remanded to the trial Court for fresh trial with direction to accept written statement of the defendant and give an opportunity to both the parties to adduce evidence and decide the suit afresh on merits expeditiously. Mr.Shinde, learned counsel for the appellants, fairly stated that he has instructions not to press this appeal against the order of remand, however, he submitted that the

appellate court has committed an error of law in allowing the defendant to file written statement. The impugned judgment was passed on 18.9.2006. It is not clear whether written statement, as has been allowed by the appeal court, is filed or not. That apart, for the reasons recorded in the impugned judgment I do not find any reason to interfere with the order by which the appeal court in order to give fair opportunity to the defendant, while setting aside the exparte order passed by the trial Court, has allowed to file written statement. No substantial question of law is raised in the present case. In the circumstances the appeal is dismissed. The trial Court shall dispose of the regular civil suit no.65 of 1995 as expeditiously as possible and preferrably within a period of eight months from the date of receipt of this order.

(D.B.Bhosale, J.)